

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: MICHAEL S. SPANGLER
LISA M. SPANGLER

CASE NO. 1-17-00450

Debtor(s)

CHAPTER 13

MICHAEL S. SPANGLER
AND
LISA M. SPANGLER

Movants

Vs.

COUNTY OF CARROLL,
MARYLAND

Respondent

FILED
HARRISBURG, PA.
2017 JUN 23 AM 10:57
U.S. BANKRUPTCY COURT
CLERK



OPPOSITION TO MOTION TO IMPOSE STAY AS TO TAX SALE OF REAL ESTATE
OWNED BY DEBTOR'S LLC

The County Commissioners of Carroll County, by and through its attorneys, Timothy C. Burke, County Attorney, and Timothy A. Dixon, Assistant County Attorney, hereby files this Response to a Motion to Impose a Stay as to Tax Sale of Real Estate owned by Debtor's LLC,

1. Respondent are the County of Carroll, a county located in the State of Maryland, with an address of 225 North Center Street, Westminster, Maryland 21157.
2. The movants are debtors Michael S. Spangler and Lisa M. Spangler.
3. There will be a real property tax sale for properties located in Carroll County, Maryland on Friday, June 30, 2017. Final bills and legal notices were mailed out to property

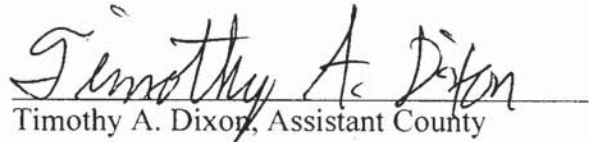
owners on April 3, 2017. A certified notice was also sent out in June 2017. The County advertised the sale on June 2, June 9, June 16 and June 23, for four consecutive weeks.

4. Individuals may file for Chapter 13 Bankruptcy relief.
5. The relief being requested is by the individual debtors of Michael S. Spangler and Lisa M. Spangler. The debtors state in paragraph No. 4 that "FSC Realty, LLC, is the title owner of valuable real estate located at 961 Leisters Church Road, Westminster, MD..."
6. Therefore, the bankruptcy case is for two individuals and the owner of the property at issue is a company. The company FSC Realty, LLC is not involved in this bankruptcy proceeding, which is a Chapter 13 proceeding for individuals.
7. Paragraph No. 4 also states that the property is owned by the company. In an attachment to the motion, two pages taken from the Carroll County, Maryland Collections/Taxes Office also notes that the owner of the property is FSC Realty, LLC.
8. Congress intended Chapter 13 of the Bankruptcy Code to be utilized by individuals with regular income for the purpose of adjusting the debts of all creditors in payment of those debts over an extended period of time. Jodway v. Fifth Third Bank, No. 16-cv-13241, 2017 U.S. Dist. LEXIS 82508, at *4 (E.D. Mich. May 31, 2017). Chapter 13 was designed to protect overextended individual wage earners desiring to repay their debts through the automatic stay and provide financial relief through a fresh start. In essence, a Chapter 13 plan is a contract between the debtor and the debtor's creditors that enables the debtor to extend and adjust his debts. Id. Upon completion of a Chapter 13 plan, the debtor is entitled to a broad discharge of his or her obligations. Id.
9. The debtor notes in the heading to the motion that the property is owned by a company and not individuals.

10. In re McCormick, 381 B.R. 594 (Bankr. S.D.N.Y. Aug. 5, 2015), a bankruptcy court declined to extend a chapter 13 debtor's stay to his wholly-owned, non-debtor, limited liability company. The ruling hinged, in part, upon the debtor's failure to satisfactorily explain why his LLC could not file its own bankruptcy case (to invoke its own automatic stay). Id.
11. A limited liability company or corporation cannot be a debtor under chapter 13. 11 U.S.C. § 109(c); In re McCormick, 381 B.R. 594, 599 (2014). The cumulative effect of these demarcations between individual and business entity steer the court toward a position that maintains the distinct lines between the two. Id.
12. In maintaining a strict line between individuals and companies, this court should not take any action when the company owns the property that is the subject matter of the tax sale.
13. The owner that has property sold by the tax collector may redeem the property at any time until the right of redemption has been finally foreclosed under the law. See, Md. Ann. Code, Tax-Property, Section 14-827. If the property is sold at tax sale on June 30, 2017, FSC Realty, LLC can still redeem the property for months thereafter. The tax sale purchaser cannot begin the tax sale foreclosure process until six months after the tax sale has concluded.

WHEREFORE, the County respectfully requests that this Honorable Court deny the debtors motion to impose stay as to tax sale of real estate owned by debtor's LLC and grant such other and further relief as is deemed just and necessary.

Respectfully submitted,



Timothy A. Dixon, Assistant County
Attorney

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410-386-2030

Attorneys for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 21st day of June, 2017, a copy of the

County's Response to a Motion to Impose a Stay as to Tax Sale of Real Estate owned by

Debtor's LLC:

Larry W. Wolf, Esq.
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